

**IN THE UNITED STATES BANKRUPTCY COURT FOR THE
WESTERN DISTRICT OF MISSOURI**

In re:

KATLYN S. CLEAVER
AND
BLAKE N. PETERSON

Debtor(s)

RICHARD V. FINK, STANDING
CHAPTER 13 TRUSTEE,

Plaintiff

vs.

CARVANA LLC
1930 W. RIO SALADO PKWY
TEMPE, AZ 85281

CARVANA LLC/BRIDGECREST
c/o AIS PORTFOLIO SERVICES, LLC
4515 N. SANTA FE AVE.
DEPT. APS
OKLAHOMA CITY, OK 73118

CARVANA LLC
PO BOX 29002
PHOENIX, AZ 85038

CARVANA LLC
c/o CSC-LAWYERS INCORPORATING
SERVICE COMPANY
221 BOLIVAR ST.
JEFFERSON CITY, MO 65101

Defendant(s).

BANKRUPTCY CASE
NO. 23-40604-drd-13

ADVERSARY CASE NO.

COMPLAINT TO AVOID PREFERENTIAL TRANSFER

COMES NOW, Plaintiff, Richard V. Fink, the Standing Chapter 13 Trustee for the Western District of Missouri (“Plaintiff”) by and through his counsel, and for his Complaint to Avoid Preferential Transfer against Carvana LLC (“Defendant”) states as follows:

- 1) Richard V. Fink is the duly qualified and acting trustee in the above referenced case.

- 2) This Court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C. §§1334 and 157.
- 3) This is a statutorily and constitutionally core proceeding within the meaning of 28 U.S.C. § 157(b)(2)(F). Venue properly lies in this judicial district pursuant to 28 U.S.C. §1409(a), in that the instant adversary proceeding is related to the above-captioned case under title 11 of the United States which is still pending.
- 4) Plaintiff brings this proceeding to avoid a preferential transfer pursuant to 11 U.S.C. §547.
- 5) On May 3, 2023, Katlyn S. Cleaver and Blake N. Peterson (“Debtors”) filed for relief under Chapter 13 of Title 11 of the United States Bankruptcy Code.
- 6) Debtors are individuals who resides at 504 NE Stonewall Dr., Blue Springs, Missouri.
- 7) Defendant is the entity that is the current holder of a Loan Agreement with Debtors executed on or around March 16, 2023.
- 8) Defendant filed claim 15 on July 7, 2023 in the amount of \$25,043.57. The claim is listed as secured by a 2015 Subaru BRZ Coupe with VIN JF1ZCAC16F9604624 (the “Vehicle”). Pursuant to the proof of claim, the noticing address is Carvana, LLC/Bridgecrest c/o AIS Portfolio Services, LLC, 4515 N. Santa Fe Ave., Dept. APS, Oklahoma City, OK 73118.
- 9) According to information Plaintiff obtained from the Missouri Department of Revenue, Debtors have not yet titled the Vehicle.
- 10) According to information Plaintiff obtained from the Missouri Department of Revenue, Defendant filed a Notice of Lien on or around April 20, 2023.
- 11) Defendant’s security interest in the Vehicle was perfected when Defendant filed the Notice of Lien, which occurred more than 30 days from the contract date.
- 12) Defendant’s security interest in the vehicle was perfected within the 90-day period prior to the filing of the bankruptcy petition but outside of the 30 days allowed for the perfection of such interest pursuant to 11 U.S.C. §547(b) & (c)(3)(B).
- 13) The transfer was to or for the benefit of Defendant and was for or on account of an antecedent debt owed by Debtors before such transfer was made.
- 14) Pursuant to §547(e)(2)(B), the transfer occurred on April 20, 2023, the date that the security interest was perfected.
- 15) Said transfer was made while Debtors were insolvent.
- 16) Said transfer will enable Defendant to recover more than it would receive as a creditor if:
 - a. The bankruptcy case was a case under Chapter 7 of Title 11 of the United States

Code;

- b. The transfer had not been made; and
- c. The Defendant received payment of the debt to the extent provided by the provisions of said Title 11.

17) The trustee is entitled to avoid this alleged transfer pursuant to 11 U.S.C. §547(b) as more than 30 days passed from the purchase date to the Notice of Lien filing date and the transfer date is within 90 days of the petition date.

WHEREFORE Plaintiff prays for judgment as follows:

- 1) An order avoiding the aforesaid preferential transfer; and
- 2) An order allowing the trustee to treat claim 15 or any amended claim filed by Defendant as a non-priority unsecured claim; and
- 3) An order preserving the property for the benefit of the bankruptcy estate as provided in 11 U.S.C. §550 and/or §551.
- 4) For such other and further relief as the Court may deem just and proper.

Respectfully submitted,

/s/ Dana M. Estes

Dana M. Estes, #47540

Staff Attorney

Office of the Chapter 13 Trustee for the
Western District of Missouri

Richard V. Fink, Trustee

2345 Grand Blvd., Ste. 1200

Kansas City, Mo. 64108-2663

Dated: July 20, 2023